REMARKS

Claims 1-6 are pending in the application.

Claims 1, 3 and 4 are rejected and claims 2 and 5 are objected to.

Claims 1, 3-4 and 6 under 35 U.S.C. 103(a) as unpatentable over Katsube et al (U.S. 6,188,699) (hereinafter Katsube).

It is admitted in the Office Action that Katsube does not describe the assembling of a packet made from the top cell to the end cell and the header created for the new top cell.

It is argued in the Office Action that it would have been obvious to create a header for the new top cell, however this is not applicant's claim language. Applicant claims generate a new header cell and the generated new header cell as a new top cell.

In contrast the Office Action argues creating a header for a new top cell. The claim language is different from what is stated in the Office Action.

Claim 1 states the top cell is analyzed to generate a new header cell, and to write the generated new header cell as a new top cell in a packet under-assembly queue. This feature is different from the Examiner's contention such as assembling cells from the top to the end cells and creating the header for the new top cell.

In addition, as to a packet buffer memory, it is indicated in the Office Action that input buffer 76, Fig. 7 of the reference is equivalent to applicants feature. But, Katsube fails to disclose any details about the input buffer 76 and does not teach applicant's claimed features.

In contrast claim 1 defines the packet buffer memory as having a plurality of cell buffers for storing a received packet on a per cell basis.

As for a buffer management memory in claim 1, the Office Action points to the information table, col. 17, lines 30-35 of Katsube. The reference describes that the information

table is to give an adequate datalink header to a frame made of cells, without analysis of information contained in the cells at the IP packet level.

In contrast applicant's claimed buffer management memory retains buffer management information corresponding to each cell buffer in the packet buffer memory. This is clearly different from the information table of Katsube.

Applicant's claim 1 also recites a packet under-assembly pointer. The Office Action points to the portion of col. 22, lines 1-25, however indicated in the Office Action the reference does not suggest any constitution of a packet under-assembly queue.

In addition the Office Action fails to support the argument of be "obvious to one skilled in the art" without providing any supporting reference. A reference is respectfully requested first because, as pointed out above, the cited feature in the Office Action is not what is claimed and second because to cited motivation in the Office Action is not clear and cannot be understood.

The MPEP 2144 makes clear that

"It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known."

If Official Notice Is Taken of a Fact, Unsupported by Documentary Evidence, the Technical Line Of Reasoning Underlying a Decision To Take Such Notice Must Be Clear and Unmistakable

> Ordinarily, there must be some form of evidence in the record to support an assertion of common knowledge. See *Lee*, 277 F.3d at 1344-45, 61 USPQ2d at 1434-35 (Fed. Cir. 2002); *Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697 (holding that general conclusions concerning what is "basic knowledge" or "common sense" to one of ordinary skill in the art without specific factual findings and some concrete evidence in the record to support these findings will not support an obviousness rejection). In certain older cases, official notice has been taken of a fact that is asserted to be "common knowledge"

without specific reliance on documentary evidence where the fact noticed was readily verifiable, such as when other references of record supported the noticed fact, or where there was nothing of record to contradict it.

The fact asserted certainly is not so well known as to be capable of instant and unquestionable demonstration as being well-known and no such line of reasoning is provided in the Office Action, nor were all of the limitations in the claims considered. It is respectfully requested the rejection be withdrawn.

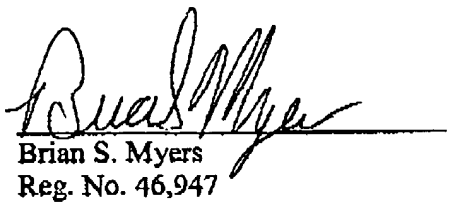
Additionally there is no suggestion which would lead one skilled in the art to make such a combination of prior art. The Office Action only recites that it is "well-known" without providing any reference to allow applicant to judge this assertion by. Thus even if all the elements were present in the cited references, it is well-established that a combination of limitations, some of which separately may be known, may be a new combination of limitations which is nonobvious under the condition of 35 U.S.C. 103.

As indicated above, the citation of Katsube is neither sufficient nor adequate to reject claim 1, and thus independent claim 1 should be allowed as well as dependent claims 3, 4 and 6.

In view of the remarks set forth above, this application is in condition for allowance which action is respectfully requested. However, if for any reason the Examiner should consider this application not to be in condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Any fee due with this paper may be charged to Deposit Account No. 50-1290.

Respectfully submitted,



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